

## Office Action Summary

Application No.

10/693,338

Applicant(s)

DWORZAN, WILLIAM S.

Examiner

Fenn C. Mathew

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 17-50 is/are pending in the application.
- 4a) Of the above claim(s) 5,20-23 and 32-35 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-19 is/are allowed.
- 6) ☒ Claim(s) 1-3,6-13,24-31 and 36-50 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 10/24/2003
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Group I in the reply filed on 02/07/2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Examiner notes that claims 14-16 were cancelled in the response filed 10/24/2006, yet claims are now listed as being withdrawn. Claims have been considered cancelled, and therefore subsequent communications should reflect the proper status of the claims. Examiner additionally notes that the embodiment of Figure 1 was elected. Claims 5, 20-23, 32-35 are drawn to non-elected embodiments, and therefore have been withdrawn.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, 6-8, 11, 24-26, 36-37, 41-50 are rejected under 35 U.S.C. 102(e) as being anticipated by Hamady (U.S. 6,629,908). Hamady discloses a housing (5) having an annular path (12) as evidenced in figure 2, a first and second handles (8) coupled to

Art Unit: 3764

the opposite sides of the housing, a shaft (6) having a first and second end and a first axis, the shaft rotatably coupled to the housing about the first axis, the first end and the second end rotatably mounted in the annular path, and a rotor (4) coupled to the shaft between the first and second ends of the shaft. Hamady discloses an embodiment in figs. 13-14 wherein the handles are coaxial. Hamady further discloses the handles perpendicular to the plane of the annular path. As best understood, Hamady discloses a power supply, a drive assembly within the housing comprising a motor for spinning the rotor, and a conductive conduit having a power terminal at one end and a drive terminal at the other end. Hamady discloses a motor and ring guide. Hamady discloses that the motor may generate electricity from the rotation of the rotor. Hamady discloses the handles configured so that moving the handles in a cone-like motion causes precession of the rotor. Note that the rotor of Hamady is an inertial wheel.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9-10, 12-13, 27-31, 38-40 rejected under 35 U.S.C. 103(a) as being unpatentable over Hamady alone. Features such as location of the power supply and providing bearing pads are considered matters of ordinary design choice. Absent criticality or unexpected results, it would have been obvious to one of ordinary skill in

Art Unit: 3764

the art to have the power supply in the form of batteries located in the handles, and to provide bearing pads in order to reduce wear. The addition of LED lights as an indicator is also considered a matter of obvious choice within the realm of one with ordinary skill in the art.

### ***Allowable Subject Matter***

6. Claims 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 17-19 are allowed.

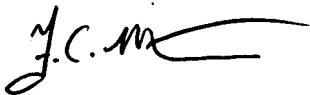
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C. Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3764

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'F.C. Mathew', with a stylized flourish extending to the right.

F.C. Mathew  
April 28, 2007